

G. R. S. 58]

Previous references.

Pol 88-03-14(1-6)B.

1913. 14

(Pol)

Later references.

Ch. 65-43 (1-6)

File No. 145-13.

Serial Nos. 1-4.

may be
preserved
207/26

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-4

Part B for Feb 15

SUBJECT.

Appointment of Prosecuting Inspectors of Police as Public Prosecutors & the issue to them, in all appeals of notices under section 422 of the Code of Criminal Procedure.

- * From the D. G. of Pol. 2816/296 of 28/1/14.
Reports sanction for the above appointment.
- * The same Office of 2219 of 6.2.14.
Enquire to whom the notices of appeal are issued by the Chief.
- * From the same Office 3752/415 of 19/3/14.
Furnish the information called for.
- * The same Office, the Conservator of Forest,
G. S. Govt. Adv. St. Master of Dist.
- * 2532-43 of 2/2/15.
- 17.2.15 Prosecutors

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 145-13

FILE HEADING.

Appointment of Prosecuting Inspectors of Police as Public Prosecutors, and the issue to them, in criminal appeals of notices under Sec 422 of the Code of Criminal Procedure!

From

The D.G. of Police

No. 1811/276

Dated 28/1/14

Received 21/1/14

Diary No. 228
21

Enclos. 1

Spare Copies. -

Serial No. 1

BRIEF ABSTRACT OF LETTER.

Brings to notice the inconvenience due to Prosecuting Inspectors of Police not being Public Prosecutors, states that convictions in police cases are often reversed on appeal for want of proper representation and requests the removal of these disadvantages by ordering in the manner indicated above.

NOTES AND ORDERS.

The prosecution in an inquiry or trial can be conducted by any person, other than a police officer below a specified rank, only with the permission of the presiding Magistrate; but in the case of the Govt. Advocate or a Public Prosecutor no such permission is required.

Sec 495
Crim Pro Code.
Put up

Serial
No.

See 493 Crim Pro Code

W
Pol 98-03Flag 2
also enclosure to
paper under disposal

Encl to 501

See 422 Cr Pro Code

is necessary. Further the Public Prosecutor can appear & plead without any written authority in any Court in which a case under his charge is under inquiry, trial or appeal. So that Prosecuting Inspectors who were specially appointed to conduct prosecutions are under a disability to appear in any Court. The D.C. of Police therefore proposes these officers to be appointed public prosecutors, a proposal which is in accordance with the practice in Madras and other British Provinces.

2) A criminal appellate court is bound to give notice where appeals are allowed, to the appellant or his pleader & any officer appointed by Govt. in this behalf. Prosecuting Inspectors not having been so appointed, they do not get notices of appeals and as a consequence, the D.C. reports, that convictions in many cases are reversed for want of proper representation. He therefore recommends that Prosecuting Inspectors be appointed as officers entitled to notice of appeal. The practice in Madras is in consonance

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No.

Enclosure to
Paper under disposal
of
G. R. S. 12

ance with the recommendation but
in other provinces it is generally the
Magistrates that get such
notices. Supd for order. Divani =
nathana Crim Procedure Code
is put ^{up} in the file

Rsa
28/1/14
M.

3) Please let me see Madras
Police orders. At present, notices
of appeal are sent to some officer.
To whom are they sent? Put up reply.

M
29/1

4) A copy of Madras Police orders
is not available in this office. Attempts
were made to find out to whom notices
of appeal are sent but ~~no~~ the
only notification that was traced
is that of 1892 (copy put up) which
requires of appeals before the Chief
Court to be given to the Asst Govt
Advocate. A draft of enquiry is sent
for approval or other orders.

Rsa
30/1/14
M.

5) I think at present
the Ch. Court sends notice of appeal to

General and Revenue
Secretariat.

Pol File No. 145

of 1913.

Serial
No.

the Govt Advocate & Session Judges to Mr
Magles. This point has to be made clear
Issue draft as revised

Ans
- 2/2

Sol
31/1

2

From the D. G. of Police in Mysore no 2219 of 1913

Enquires if notices of appeal are issued
by the Chief Court, Sessions Judge & District Magistrate
to any officer of Govt & if so, to whom.

3.

From the D. G. of Police no 3752/415 of 19.3.14

Furnishes the information called for.

6) Notices of appeal are issued by the Chief
Court and the Sessions Judge of Nagav
and Ahtagram Divisions while no information
is said to be available regarding the issue
of such notices by the Sessions Judge of
Nandiyroog Division

7) Of the District Magistrates those at
Bangalore and Tumkur are not ^{generally} issuing
them but the rest send them to the
Superintendents of Police or Prosecuting
Inspectors.

The D. G. therefore recommends
that his proposal to appoint Prosecuting
Inspectors as Public Prosecutors may
be approved. Sd/-

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No.

9) Please put up the order about the appointment of
Govt. Advocate Public Prosecutor.

Ex
2874

10) The file of relating to the appointment of Mr Minakshigya as Govt Advocate in 1881 is put up.

21) The file relating to the appointment of Public Prosecutor is said to be not traceable. A copy of the notification appointing Public Prosecutor in 1879 with a copy of the rules therein referred is put up -

22) A copy of the latest G.O. regarding the duties of Govt Advocates & Public Prosecutors is also subd.

AS 52.

14 | 12 | 14

AS 52.)
11/12/14
23) Two proposals are made by the 28 of Dec;
one is that all Prosecuting Inspectors should be
appointed Public Prosecutors under S 492 of the
Criminal Procedure Code, and the other is that
all ^{appellate} courts should be directed to issue notices of
appeals to under S 422 Cr. P. C. to ~~under~~ Prosecuting
Inspectors.

4) With regard to the first proposal, no valid objection can be raised against ~~such~~ it. ~~appointment~~ The necessity for such a sanction at this time is on account of and by extraneous

NOTE—Contn. sheet.

Serial
No.

Khaur has put forward as to the authority of the
Prosecuting Inspector in a recent case. The Magistrate is said
to have overruled the objection. But the question need
not be left to the discretion of the trying Magistrate.
Further, certain powers are vested in Public Prosecutors
such. There are also precedents for such appointments
in British India.

25) as pointed out by the ^{in Madras} 28, Prosecuting
Inspectors and Sub-Inspectors are individually
appointed Public Prosecutors, under S 492 of the Cr.P.C.,
and, as such, their services may be commanded by the
District Magistrate."

26) In Bengal also, "every Inspector and
Sub-Inspector of Police who has been appointed to prosecute
cases before the Courts of Magistrates is thereby appointed
to be a Public Prosecutor generally for all such cases
in such Courts."

27) So this proposal of the 28 may be sanctioned.

28) With regard to the 2nd proposal, on enquiry it
is ascertained that there is no uniform practice
among the appellate Courts in the issue of such
notices. Some appellate Courts do not issue any
notices at all and are said to set aside convictions
on one-sided arguments. This is a real grievance
and needs to be remedied. In this connection, it
may be pointed out that the Chief Court in a recent case

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No.

objected to this ~~new~~ method of deciding a case without
issuing notice to the opposite side.

29) The rule proposed by the Dy. that in Police cases
notice should be issued to the Prosecuting Inspector may be
approved. Similarly in the same notification it may be
stated that notice should be issued to the Dy. Inspector in
appeals against convictions for first offences, and to the
Magistrate in other cases.

30) If approved, two separate notifications draft-
will be submitted for approval.

ES
15/1/44

First Member)

31) Prosecuting Inspectors may be
appointed Public Prosecutors under
Sec 492 C.P.C. for all cases other than
those going to the Court of Session.
For ~~issuing~~ ^{a comprehensive} notice in cases of
appeal ~~an~~ order may be prepared
somewhat like that in force in
Madras.

~~Session cases~~

32) Appeals in Sessions Court &
Chief Court — the present practice
seems all right. In appeals before
Magistrates notices may be directed

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No.

to be issued to Departments of Forest & Excise ~~and~~ in cases relating to them and to the Superintendents of Police in other cases. It is perhaps desirable to direct issue of notice to Complainants in all Compoundable cases but there seems to be no provision in the Procedure Code under which this may be done. It may however be examined whether such a rule is in force anywhere in British India.

~~17.12.14~~

[Signature]
17/12

suggested.

33) Please put up draft on the lines

[Signature]
18/12/14

34) A draft S.O. is put up. No rule directing the issue of notice to complainants in compoundable cases could be traced.

AS 52.
(21/1/15)

35) Please put up a 103 draft

[Signature]
21/1/15

Madras Criminal
Rules of Practice
in Part
B
12/1/15

Pol 2/1

G. R. S. 12]

General and Revenue
Secretariat.

Pol File No. 145

of 1913 .

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No.

36) Lady Drab-put up.

ASS4
21.1.15)

37) Subd for apponal motion order

Es
22/1/15Just Member) Dr. Appd by 181 Mr. Sinker
29/11

647

Issue

Es
29.1.15

4.

To Hon. J. G. of Police

The Conservator of Forests

The Excise Commr in Mysore.

The Govt Advocate

The D. Master of O.S.

No. 2532-43 by 2-2-15.

Appoints Prosecuting Inspectors as Public
Prosecutors & states the officers to whom notices in
criminal appeals are to be sent.

1

No. 2816 51 Office of the Inspector General of Police in Mysore,
Bangalore, dated the 20th January 1914.

From

C. Srikantesvara Aiyar Esquire, B.A., B.L.,

Inspector General of Police in Mysore.

To

11/11/14
21/1/14
any Police

10/3-10/4
SECTION: Police
FILE NO. 145-13
SERIAL NO. 1

K.R. Sreenivasiengar Esquire, M.A.,

Secretary to the Government of His

Highness the Maharaja of Mysore,

General and Revenue Departments.

Sir,

I have the honor to state that it has come to my notice that in a case of affray charged by the Police, the defence took objection for the prosecution being conducted by the Prosecuting Inspector, on the ground of his not being appointed a Public Prosecutor under Section 492 Criminal Procedure Code, but the Court chanced to overrule the objection in the particular instance, under Section 495 of the said code.

2. There is no doubt that these Prosecuting Inspectors of Police are under a legal disability to conduct prosecutions unless appointed Public Prosecutors, notwithstanding their appointment was specially sanctioned by Government for the sole purpose of conducting prosecutions before Subordinate Magistrates, and it is therefore very necessary to remove such disability.

3. I may also bring to the notice of Government a further fact that many convictions secured in Police cases are reversed in appeal for lack of proper representation before the appellate Courts, as no notices of appeals are given to the Police, since it is not obligatory on the part of the Courts to do so; and consequently one sided decisions especially in such cases of affray and disturbance of

public tranquility etc, have not unfrequently defeated ends of justice and emboldened breakers of Law to augment and foster feuds and factious spirits.

4. In the Madras Presidency and elsewhere, all Prosecuting Inspectors and Sub-Inspectors of Police are appointed Public Prosecutors under Section 492 Criminal Procedure Code, and by special orders they are also appointed officers to whom notices of appeals under Section 422 of the same code (vide extract enclosed for reference) should be issued. Under these circumstances, I request, that with a view to avert such troubles and advance ends of justice, Government may be moved to similarly appoint all our Prosecuting Inspectors, Public Prosecutors under Section 492, Criminal Procedure Code, and to direct all the Courts to have notices of appeals under Section 422, Criminal Procedure Code, issued to them.

I have the honor to be,

Sir,

Your most obedient servant,



Inspector General of Police.

(3)

Encl to Pol
145-13-1

MADRAS POLICE ORDERS.

152. Prosecuting Inspectors and Sub-Inspectors are individually appointed Public Prosecutors under Section 492 of the Cr. Pro. Code, and, as such, their services may be commanded by the District Magistrate.

CRIMINAL RULES OF PRACTICE, MADRAS.

60. The following officers are the officers to whom Notices of Appeal shall be given under Section 422, Code of Criminal Procedure.-

3. The Prosecuting Inspector of Police in Muffasal Districts other than the Nilgiris in Appeals against convictions in cognizable cases in the Appellate Courts in those Districts other than the Court of Sessions.

G.O. No.1527/Judicial, dated 12th November 1909
and G.O. No.918/J dated 16th June 1910.

"EXTRACT"

/

Inspector General of Police.

Page 16 of
Criminal
Rules of
Practice
Flag Q

G. R. S. 26]

31/1

2228

Diary No. of letter replied to —

Pal

File No. 145-13

Serial No. 2

No. 2219

General and Revenue Secretariat

()

, the

191

To

The H.Q. of Police.

Sir.

Date of issue — 6/2/14

Signed by — S.P. Rajagopalachari

Secy

With reference to your

letter no 2816/126 of 20th Jan 14

recommending that Public

of Police

Prosecuting Inspectors be

appointed Public Prosecutors

& that notices under Sec 422

of Crim P.C. be issued to

them, I am directed to

request you to be so good as

to intimate the ~~substantive~~ officer

at present ~~notified~~ of the ~~substantive~~

sent I am over.

Whether any notices of appeal are sent now to any officer under Sec. 422 Cr.P.C. & if so, to which officers such notices are sent now sent by the Ch. Court. Senior Judges & District Magistrates before deciding appeals.

SUBJECT.

Yours very truly

ad
2/2

5

No. 3752 Office of the Inspector General of Police in Mysore,
Bangalore, dated the 19th March 1914.

From

11/2/14
20/3

C. Srikanteswara Aiyar Esquire, B.A., B.L.,	
SECTION	Police
FILE No.	145-13
SERIAL No.	3

K.R. Sreenivasiengar Esquire, M.A.,

Secretary to the Government of

His Highness the Maharaja of Mysore,
General and Revenue Departments.

Sir,

With reference to your letter No.J.2219/Police 145-13-2 dated the 6th February 1914, calling for information, whether notices of appeals under Section 422, Criminal Procedure Code, are given by the several appellate Courts before deciding appeals and if so, to which officer, I have the honor to state as follows:-

1. The Chief Court and the Sessions Judges of the Astagram and Nagar Divisions do issue these notices, the former to the Government Advocate and the latter to the District Magistrates concerned. But there is no information as regards the issue or otherwise of such notices by the Sessions Judge, Nandidrug Division. It is reported that he has so far issued none in the Tumkur District, probably due to the fact that he exercises no powers of appeal over the Magistracy of that District.

2. As regards District Magistrates, those of Bangalore and Tumkur do not generally issue these notices, while the rest do send them - some to the District Superintendents and others to the Prosecuting Inspector.

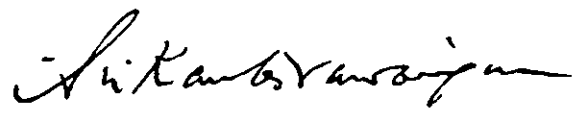
3. Thus there is no uniformity of practice in the

the issue of notice of appeals under Section 422, Criminal Procedure Code, and I, therefore, request that Government may be moved to direct all Courts to invariably issue such notices as recommended in my letter No.2816/296 dated the 20th January 1914.

I have the honor to be,

Sir,

Your most obedient servant,



Inspector General of Police.

S. K.

G.R.S. 28]

ab

Tidy Draft

7

Appointment of Prosecuting Inspectors as Public Prosecutors and of the officers to whom notices in criminal appeals are to be sent

13 copies

Det File No. 145-13

Serial No. 4

Diary No. of letter replied to _____

GENERAL AND REVENUE
SECRETARIAT.
()

Proceedings of the Government of His Highness
the Maharaja of Mysore

READ—

the

191
Paper with
disposal.

Letter no 2816/296 of 20th Jan 1914.

Date of issue 2. 2. 1915.

from the P.S. of Police in Mysore stating

that sometimes objection is taken to the

Signed by M. G. Venkataswami

prosecution in criminal cases being conducted

ORDER THEREON—No.

by Prosecuting Inspectors of Police as they are

not appointed Public Prosecutors under

Sec 492 Criminal Procedure Code and

that convictions secured in Police cases

are often reversed ⁱⁿ ~~the~~ appeal for want of
proper
over.

SUBJECT.

21

~~5~~

proper representation in the appellate courts
as notices of appeal are not issued to the
police and therefore requesting that Prosecuting
Inspectors may be appointed Public Prosecutors
and that notices of appeal may be
ordered to be issued to them.

2. Correspondence ending with letter

No 3752/415 of 17th March 1914 from the same officer
on the subject.

N. 3

Order thereon: 7 2532-43.

Gout are pleased to appoint, under Sec 492 Crim. Pro. Code, all
Prosecuting Inspectors of Police to be Public
Prosecutors for all cases before the Courts of
Magistrates.

Gout are pleased to direct that
notices of appeal under Sec 422 of the
Code of Crim. Procedure be given to the
following officers:-

1. The Dist Superintendent of Police
in appeals before S.D. Magistrates and
before Magistrates specially empowered to
hear appeals.

G.R.S. 27]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

This may be printed.

His
29/1/15
11-115

9

2. The District Forest Officers in appeals
against convictions for forest offences.

3. The D. Excise Officers in appeals
against convictions for breach of the
Excise Laws.

Govt consider that the existing
practice of issuing notices in appeals
before the Chief Court to the Govt. Advo-
cate and to the D. Magistrates con-
cerned in appeals before the Courts of
Session may be continued.

28/1/15
Hon offg Secy

To The D. G. of Police

The Conservator of Forests

The Excise Commr.

The Govt Advocate

The D. Magistrates of Dto

**Government of His Highness the Maharaja
of Mysore.**

GENERAL AND REVENUE DEPARTMENTS.

G.O. No. J. 2532-43—Police 145-13-4, dated 2nd Feb. 1915

Public Prosecutors and Issue of Notices in Criminal Appeals.

Appointing { (1) Prosecuting Inspectors as Public Prosecutors.
 { (2) Officers to whom notices in criminal appeals are to be sent.

**Public Prosecutors and Issue of
Notices in Criminal Appeals.**

No. J. 2532-43—POLICE 145-13-4, DATED 2ND FEBRUARY 1915.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE
MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

READ—

Letter No. 2816—296, dated 30th January 1914, from the Inspector-General of Police in Mysore, stating that some times objection is taken to the prosecution in criminal cases being conducted by Prosecuting Inspectors of Police as they are not appointed Public Prosecutors under Section 492, Criminal Procedure Code, and that convictions secured in Police cases are often reversed in appeal for want of proper representation in the appellate Courts as notices of appeal are not issued to the Police, and, therefore, requesting that Prosecuting Inspectors may be appointed Public Prosecutors and that notices of appeal may be ordered to be issued to them.

2 Correspondence ending with letter No. 3752—415, dated 19th March 1914, from the same officer on the subject.

Order No. J. 2532-43—Police 145-13-4, dated 2nd February 1915.

Government are pleased to appoint, under Section 492, Criminal Procedure Code, all Prosecuting Inspectors of Police to be Public Prosecutors for all cases before the Courts of Magistrates.

Government are pleased to direct that notices of appeal under Section 422 of the Code of Criminal Procedure be given to the following officers:—

1. The District Superintendents of Police in appeals before District Magistrates and before Magistrates specially empowered to hear appeals.
2. The District Forest Officers in appeals against convictions for forest offences.
3. The District Excise Officers in appeals against convictions for breach of the Excise Laws.

Government consider that the existing practice of issuing notices in appeals before the Chief Court to the Government Advocate and to the District Magistrates concerned in appeals before the Courts of Session may be continued.

D. M. NARASINGA RAO,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Inspector-General of Police in Mysore.
The Conservator of Forests.
The Excise Commissioner in Mysore.
The Government Advocate.
The District Magistrates of Districts.

Exd.—C.R.